

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**DONALD R. OLIVER,**  
**Plaintiff,**

**Civil Action No. 7:11-cv-00289**

**v.**

**ORDER**

**LISEL BROWE, et al.,**  
**Defendants.**

**By: Hon. Robert S. Ballou**  
**United States Magistrate Judge**

Defendants filed a motion for summary judgment and a corrected brief in support that references the defendants' declarations. However, the declarations bear only the declarants' signatures without any attestation before a notary public. See Elder-Keep v. Aksamit, 460 F.3d 979, 984 (8th Cir. 2006) (authorizing district courts to sua sponte exclude an "affidavit" from consideration when it lacks attestation before a notary public or does not comply with 28 U.S.C. § 1746). Thus, it is not presently clear whether defendants made their declarations before an officer authorized to administer an oath. Furthermore, the declarations do not comply with 28 U.S.C. § 1746 for unsworn declarations because they do not expose the declarants to the penalty of perjury. Accordingly, it is hereby

**ORDERED**

that defendants have seven days from the date of entry for this Order to remedy their declarations, pursuant to Rule 56(e), Fed. R. Civ. P.

The Clerk is directed to send certified copies of this Order to plaintiff and counsel of record for defendants.

Entered: December 7, 2011

*/s/ Robert S. Ballou*

Robert S. Ballou  
United States Magistrate Judge